



**Declaration and Power of Attorney for Patent Application**

1

Docket No. HMD2000-1-CIPA

As the Inventor named below, I, Thomas Nello Giaccherini,  
hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I believe I am an original and joint Inventor, along with James Riley Stuart, for the subject  
matter which is claimed and for which a Patent is sought on the Invention entitled:

## **Method for Utilizing Excess Communications Capacity**

the Specification of which was filed on 16 October 2000, and which was assigned U.S. Serial  
Number 09/688,997.

I hereby state that I have reviewed and understand the contents of the above identified  
Specification, including the Claims, as amended by any Amendment referred to above.

I acknowledge the duty to disclose to the Patent Office all information known to me to be  
material to patentability as defined by Title 37 Code of Federal Regulations, Section 1.56,  
as amended. I further acknowledge the duty imposed by 37 CFR Section 1.63(d) to disclose  
to the Patent Office all information known by me which is material to patentability as defined  
by 37 CFR Section 1.56, as amended, which became available between the filing date of my  
Continuation-in-Part Application.

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2

Docket No. HMD2000-1-CIPA

**CLAIMS FOR PRIORITY**

I hereby claim the benefit under Title 35, United States Code, Section 120 of any United States Application(s) listed below and, insofar as the subject matter of each of the Claims of this Application is not disclosed in the prior United States Application in the manner provided by the first paragraph of Title 35, United States Code, Section 112, I acknowledge the duty to disclose material information as defined in Title 37, of Federal Regulations Code, Section 1.56 which occurred between the filing date of the prior Application and the National or PCT International filing date of this Application:

Application Serial No.	Filing Date	Status
09/579,324	25 May 2000	Pending

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3

Docket No. HMD2000-1-CIPA

**POWER OF ATTORNEY:** As the named Inventor, I hereby appoint the following Attorneys to prosecute this Application and to transact all business in the Patent and Trademark Office connected therewith.

Thomas N. Giaccherini, Registration No. 31,075  
Allen H. Sochel, Registration No. 32,494

**SEND CORRESPONDENCE TO:**

Thomas N. Giaccherini

**Anglin & Giaccherini**

Post Office Box 1146

Carmel Valley, California 93924

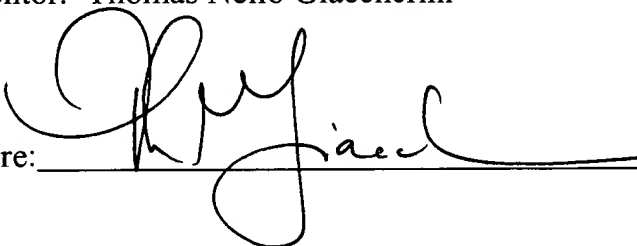
**DIRECT TELEPHONE CALLS TO:**

Thomas N. Giaccherini

831.659.5300

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the Application or any Patent issuing thereon.

Full Name of Inventor: Thomas Nello Giaccherini

Inventor's Signature:  Date: 28 Feb 2001 .

Residence: Post Office Box 1146, Carmel Valley, California 93924

Post Office Address: Same

Citizenship: United States



#3

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Application Serial No.	Filing Date	Status
09/579,324	25 May 2000	Pending

**VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY  
STATUS 37 CFR 1.9 and 1.27 - SMALL BUSINESS CONCERN**

Applicants: Thomas N. Giaccherini et al.  
Filed: 16 October ~~2001~~ 2000 - *Thy*  
Title: **Method for Utilizing Excess Communications Capacity**  
U.S.S.N.: 09/688,997

I hereby declare that I am an Official of the small business concern empowered to act on behalf of the concern identified below:

**SkyVault Secure Digital Distribution, Inc.**  
Post Office Box No. 1146  
Carmel Valley, California 93924

I hereby declare that the above identified small business concern qualifies as a small business concern as defined in 13 CFR 121.3-18, and reproduced in 37 CFR 1.9 for purposes of paying reduced fees under Section 41 of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this Statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third-party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to, and remain with the small business concern identified above with regard to the Invention entitled

**Method for Utilizing  
Excess Communications Capacity**

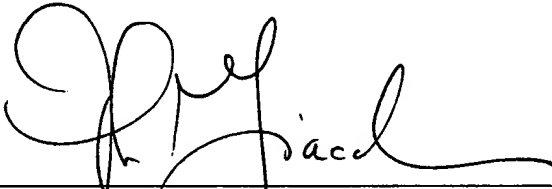
by Inventors Thomas Nello Giaccherini and James Riley Stuart, filed on 16 October 2001, and which was assigned U.S. Serial No. 09/688,997.

No rights to the Invention are held by any person, other than the Inventors, who could not qualify as a small business concern under 37 CFR 1.9 or by any concern which would not qualify as a small business concern under 37 CFR 1.9 or a nonprofit organization under 37 CFR 1.9.

**Verified Statement (Declaration) Claiming Small Entity Status**

I acknowledge the duty to file, in this Application or Patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small business entity is no longer appropriate (37 CFR 1.28).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the Application, any Patent issuing thereon, or any Patent to which this Verified Statement is directed.

Signature:  Date: 28 Feb 2001.  
Thomas N. Giaccherini, President  
**SkyVault Secure Digital Distribution, Inc.**  
Post Office Box No. 1146  
Carmel Valley, California 93924

Thomas N. Giaccherini  
**Anglin & Giaccherini**  
Post Office Box 1146  
Carmel Valley, California 93924

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Thomas N. Giaccherini, Registration No. 31,075

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Full Name of Inventor: James Riley Stuart

Inventor's Signature:  Date: 1/3/01

Residence: 1082 West Alder Street, Louisville, Colorado 80027-1046

Post Office Address: Same

Citizenship: United States